

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE PRESCRIPTION
OPIATE LITIGATION

THIS DOCUMENT RELATES TO:
ALL CASES IN THE ATTACHED LIST

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

**MOTION FOR LEAVE TO FILE MOTION TO DISMISS CASES
PENDING IN STATES WHERE KROGER HAS NO STORES**

Pursuant to CMO-1 (Dkt. No. 232), Defendants The Kroger Co., Kroger Limited Partnership I, Kroger Limited Partnership II (collectively “Kroger”) request leave to file their Motion to Dismiss without prejudice cases pending in states where Kroger has no stores, and with prejudice cases pending in states where Kroger has no stores and has not been served.

This motion follows several directives from this Court to dismiss cases in jurisdictions where pharmacies do not operate. Although this Court agreed that pharmacies should not be sued where they do not operate stores, there are still twenty-five such cases pending against Kroger in the MDL. Kroger has reached a global settlement agreement in principle with the jurisdictions within the states in which Kroger does operate, and the pending cases in states in which Kroger does not operate are frustrating the parties’ ability to finalize that global settlement. Therefore, Kroger seeks leave to file its motion, attached hereto as Exhibit 1.

Date: January 26, 2024

Respectfully submitted,

/s/ Ronda L. Harvey

Ronda L. Harvey, Esq. (WVSB 6326)

Ashley Hardesty Odell, Esq. (WVSB 9380)

Fazal A. Shere, Esq. (WVSB 5433)

Jennifer B. Hagedorn (WVSB 8879)

BOWLES RICE LLP

600 Quarrier Street

Charleston, West Virginia 25301
304-347-1100

rharvey@bowlesrice.com

ahardestyodell@bowlesrice.com

fshere@bowlesrice.com

jhagedorn@bowlesrice.com

*Counsel for The Kroger Co., Kroger Limited
Partnership I, Kroger Limited Partnership II*

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on January 26, 2024, the foregoing document was filed with the Clerk of Court using the CM/ECF system which will send notice to all counsel of record. Copies of this document may be obtained through the CM/ECF system.

s/ Ronda L. Harvey
Ronda L. Harvey, Esq. (WVSB 6326)